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In re Application of
PAPANASTASIOU, Panos
U.S. Application No.: 10/009,505
PCT No.: PCT/GB00/02471
Int. Filing Date: 22 June 2000
Priority Date: 23 June 1999
Attorney Docket No.: US57.0328
For: CAVITY STABILITY PREDICTION
METHOD FOR WELLBORES

DECISION

This is a decision on applicants' "Petition Under 37 CFR 1.181 to Reset the Period for Response" filed on 18 November 2003 which is treated as a petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 06 February 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 29 July 2002, a "Status Inquiry" was submitted requesting information on the above-identified application.

On 18 November 2002, applicants submitted the instant petition which was accompanied by, *inter alia*, a document titled "Submission of Missing Parts" along with an executed declaration.

DISCUSSION

The time period to respond to the Form PCT/DO/EO/905 mailed 06 February 2002 including all extensions of time pursuant to 37 CFR 1.136(a) has already expired.

Accordingly, the above-captioned application is hereby **ABANDONED**.

In the instant petition, applicants claim that the Form PCT/DO/EO/905 mailed 06 February 2002 was never received until a copy was sent via facsimile in November 2002 after a call to the PCT Help Desk. Accordingly, this petition is deemed a petition

to withdraw the holding of abandonment based on a failure to receive an Office action, not a petition to reset the time period due to late receipt of an Office action. See § 711.03(c) MPEP.

Petition to Withdraw the Holding of Abandonment

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

In the "Status Inquiry" filed 29 July 2002, applicants claim that "[w]e are currently waiting for the Official "Filing Receipt" and "Notice to File Missing Parts, *Filing Date Granted*." This statement satisfies item (1). However, applicants have not made the required statement that a search of the file jacket and docket records indicate that the Notification of Missing requirements was never received. As such, item (2) is not yet complete.

In addition, petitioners have not provided a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. This requirement is outlined in section 711.03(c) of the MPEP which states, in part:

A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

Applicants may provide a copy of the docket records for the date upon which a response to the Form PCT/DO/EO/905 mailed 06 February 2002 was due (*i.e.*, 06 April 2002). An example of such a record would be a daily "tickler" report or a daily log showing all applications for which a response is due on that date. However, this evidence has not yet been provided. As such, item (3) is not satisfied.

Applicants have not yet established nonreceipt of an Office action.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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